

**IT IS THE VENDOR'S RESPONSIBILITY TO CHECK  
FOR ADDENDUMS PRIOR TO SUBMITTING PROPOSALS**

**NOTICE TO BIDDERS  
SPECIFICATION NO. 03-194**

The City of Lincoln, Nebraska intends to purchase and invites you to submit a sealed bid for:

**LEASE WITH OPTION TO PURCHASE TWIN ENGINE WHEEL  
TRACTOR SCRAPER**

Sealed bids will be received by the City of Lincoln, Nebraska on or before 12:00 noon Wednesday, July 23, 2003 in the office of the Purchasing Agent, Suite 200, K Street Complex, Southwest Wing, 440 South 8th Street, Lincoln, Nebraska 68508. Bids will be publicly opened and read at the K Street Complex.

Bidders should take caution if U.S. mail or mail delivery services are used for the submission of bids. Mailing should be made in sufficient time for bids to arrive in the Purchasing Division, prior to the time and date specified above.

SPECIFICATION NUMBER 03-194  
CITY OF LINCOLN  
EQUIPMENT SPECIFICATIONS  
FOR  
LEASE WITH OPTION TO PURCHASE OF TWIN ENGINE WHEEL TRACTOR SCRAPER  
  
GENERAL SPECIFICATIONS

1. **GENERAL**

- 1.1 The City of Lincoln (City) intends to enter into an agreement for a three (3) year lease with option to purchase (lease/purchase) of a twin engine wheel tractor scraper complete with a full machine maintenance agreement.
- 1.2 The lease/purchase agreement shall be in accordance with the standard provisions normally offered by the manufacturer/seller and subject to approval by the City.
  - 1.2.1 The equipment shall be fully warranted during the term of the lease and any remaining standard and extended warranties shall be fully transferable to the City if the City elects to purchase the equipment and shall extend for period not to exceed three years (3) or 6,000 operating hours, whichever occurs first.
  - 1.2.2 The agreement shall stipulate that no additional costs shall be assessed to the City for tire wear, if the equipment is returned to the Lessor with tire tread life equal to or greater than (40) per cent and with no damage beyond normal and expected wear.
- 1.3 The City shall have the option to purchase the equipment at any time during the agreement for the purchase residual amount shown on the Bid Proposal Form.
- 1.4 The lease/purchase agreement and full machine maintenance agreement shall be subject to availability of funds and in the event funds are no longer appropriated for these agreements it shall be terminated by a written notice, thirty (30) days in advance with no additional penalty to the City of Lincoln.

2. **MODEL**

- 2.1 Diesel powered, twin engine (front and rear wheels powered) wheel tractor scraper.
- 2.2 Equipment must be new, 2003, and of the latest improved model under current production.
- 2.3 Equipment shall be Tier 2 emission compliant in accordance with Federal requirements.
- 2.4 Specifications are based on a Caterpillar Model 627G Wheel Tractor Scraper.
  - 2.4.1 Bids for alternate equipment which is functionally equivalent to the Caterpillar Model 627G Wheel Tractor Scraper will be given every consideration.
  - 2.4.2. In order for the City to perform the described application safely and efficiently, alternate models shall have the same operating characteristics as the above equipment, such as the operator controls, maneuverability, tractive effort, and productivity.

3. **APPLICATION**

- 3.1 Equipment will operate daily in a landfill application where waste quantities average 750 tons per day.
- 3.2 Equipment is used for excavating, hauling, spreading and stockpiling soil for use as waste cover, road building and maintenance and for preparing areas of the landfill for future development.
- 3.3 Equipment shall also be used to haul and spread road aggregate for road building and maintenance.
- 3.4 Equipment must be capable of operating continuously in all weather conditions and temperatures having suitable performance to easily excavate dense "hard-pan" soils without assistance from a push-dozer.
- 3.5 Equipment shall be designed for maximum operator visibility and maneuverability while operating in very confined areas and in close proximity to vehicle traffic.

- 3.6 Equipment shall be design for safe operation on compacted waste materials and on maximum slopes of 4:1.
- 3.7 Equipment shall be designed to operate on minimally maintained haul roads safely.
- 3.8 Operator controls, seat and cab must be ergonomically designed and adjustable.

4. **EQUIPMENT DEMONSTRATIONS AND USER REFERENCES**

- 4.1 Bidders shall provide an equipment demonstration either an on-site or off-site in a landfill application if requested by the City and at no additional cost to the City.
- 4.2 Bidders shall provide, if requested by the City of Lincoln, a reference list of a minimum of six (6) current users of equipment the being bid.
  - 4.2.1 All references shall be using the equipment in a landfill application.
  - 4.2.2 The reference list shall contain the facility name, contact person, phone number, number of units in use, and number of years the equipment has been used at the site.

5. **BID SUBMITTAL (Completed bid submittal shall include the following items.)**

- 5.1 A copy of these specifications with compliance marked "yes" or "no".
- 5.2 All exceptions noted when not in compliance with these specifications and an explanation provided.
- 5.3 A completed Bid Proposal Form complete with the specified bid security amount.
- 5.4 Manufacturer's literature fully describing the equipment, the specified features, and all requested options.
- 5.5 A standard lease/purchase agreement and lease payment schedule showing annual end of year purchase residual amounts.
- 5.6 Exceptions to the Heavy Equipment Maintenance Agreement shown in Bid Attachment A shall be noted including but not limited to per incident deductibles, limits of liability, exclusions, transferability.

6. **HEAVY EQUIPMENT FULL MAINTENANCE AGREEMENT**

- 6.1 Following bid award and as part of the lease purchase of the equipment, the City and Lessor shall enter into a Heavy Equipment Full Maintenance Agreement (Maintenance Agreement) as shown in Bid Attachment A.
- 6.2 The Maintenance Agreement shall be in effect from the date of machine acceptance by the City of Lincoln until the end of the three (3) year lease agreement.
- 6.3 In the event the City of Lincoln elects to purchase the equipment during the term of the lease, the Maintenance Agreement shall be effective during the following period:
  - 6.3.1 The first 6000 operating hours as recorded by the engine hour meter, or;
  - 6.3.2 Three (3) years from the date of original acceptance, whichever occurs first.
- 6.4 Failure to enter into a Maintenance Agreement with the City within ten (10) working days from the date of bid award shall cause a forfeiture of the Bidder's bid security to the City as full liquidated damages.
- 6.5 Within ten (10) working days after the award of bid, the successful bidder must furnish a performance bond in the sum \$10,000.00.
  - 6.5.1 Such bond shall be executed by the Lessor/seller and by a corporate surety company authorized to transact business in the State of Nebraska.
  - 6.5.2 Such bond shall be conditional upon the faithful performance of all terms and conditions of the Maintenance Agreement, including the holding harmless of The City of Lincoln from failure to do so, and including the making good of any and all guarantees which the contract documents may require for the duration of the contract period.
- 6.6 In the event the City elects to purchase the Equipment, this agreement shall continue to be in effect during the term specified above.
- 6.7 At any time during the term of this agreement the City of Lincoln reserves the right to return the Performance Bond rendering the Maintenance Agreement null and void.

TECHNICAL SPECIFICATIONS  
FOR  
TWIN ENGINE WHEEL TRACTOR SCRAPER

Meets Specifications or provide requested information		Company Name _____	Specification Requirement (circle yes/no or provide information as requested)
		<b>7. TRACTOR ENGINE</b>	
Yes	No	7.1	Diesel powered, Tier 2 emissions compliant.
Yes	No	7.2	Six cylinder.
Yes	No	7.3	Four-stroke-cycle.
Yes	No	7.4	Turbo charged.
Yes	No	7.5	Water cooled.
Yes	No	7.6	Minimum 330 net flywheel horsepower at 1900 RPM, as determined by SAE J1439 standard.
Yes	No	7.7	Dry type air cleaner with primary and secondary elements.
Yes	No	7.8	Manufacturer's recommended pre-cleaner assembly.
Yes	No	7.9	Engine mounted air cleaner restriction indicator.
Yes	No	7.10	24-volt electric starting system.
Yes	No	7.11	12-volt, heavy duty, maintenance free batteries.
Yes	No	7.12	75-amp alternator.
Yes	No	7.13	Manufacturer recommended 120-volt engine block heater.
Yes	No	7.14	Full flow spin-on oil filter.
Yes	No	7.15	Ether starting aid.
Yes	No	7.16	Cold weather jump start system (connected to the engine starter) with receptacles accessible by operator from ground level.
Yes	No	7.17	Insulated shielding around engine to aid in cooling the engine and operating compartments.
Yes	No	7.18	Hinged door hood to provide access to top of engine.
		<b>8. SCRAPER ENGINE.</b>	
Yes	No	8.1	Diesel powered, Tier 2 emissions compliant.
Yes	No	8.2	Six cylinder.

Meets Specifications or provide requested information		Company Name _____ Specification Requirement (circle yes/no or provide information as requested)	
Yes	No	8.3	Four-stroke-cycle.
Yes	No	8.4	Turbo charged.
Yes	No	8.5	Water cooled.
Yes	No	8.6	Minimum 225 net flywheel horsepower at 2200 RPM, as determined by SAE J1439 standard.
Yes	No	8.7	Dry type air cleaner with primary and secondary elements.
Yes	No	8.8	Manufacturers recommended pre-cleaner assembly.
Yes	No	8.9	Engine mounted air cleaner restriction indicator.
Yes	No	8.10	24 volt electric starting system.
Yes	No	8.11	12-volt, heavy duty, maintenance free batteries.
Yes	No	8.12	35-amp alternator.
Yes	No	8.13	Manufacturer recommended 120-volt engine block heater.
Yes	No	8.14	Full flow spin-on oil filter.
Yes	No	8.15	Ether starting aid.
Yes	No	8.16	Cold weather jump start system (connected to the engine starter) with receptacles accessible by operator from ground level.
		<b>9. TRACTOR TRANSMISSION.</b>	
Yes	No	9.1	Automatic power shift, electronically controlled.
Yes	No	9.2	Single-lever transmission shift control.
Yes	No	9.3	Eight (8) forward and one (1) reverse gears
Yes	No	9.4	Maximum speed at least 30 MPH.
Yes	No	9.5	Torque multiplication in first, second and reverse gears.
Yes	No	9.6	Direct drive from third through highest gear.
Yes	No	9.7	Manually operated transmission lock to override automatic shifting.
Yes	No	9.8	Electronic control to override transmission lock to ensure proper engine RPM and prevent engine over-speed.
Res	No	9.9	Downshift inhibitor to prevent transmission from shifting to neutral from speeds above 3.5 MPH.
Yes	No	9.10	Automatic downshifts to match the machine ground speed until torque converter drive speed is reached.

Meets Specifications or provide requested information		Company Name _____
		Specification Requirement (circle yes/no or provide information as requested)
Yes	No	9.11 Top gear control to prevent transmission shifting above gear selected by operator.
Yes	No	9.12 Transmission guarding to prevent damage from operation in landfill environment.
		<b>10. SCRAPER TRANSMISSION.</b>
Yes	No	10.1 Planetary-type.
Yes	No	10.2 Full torque converter drive.
Yes	No	10.3 Shifting electronically synchronized to tractor transmission.
		<b>11. DIFFERENTIALS.</b>
Yes	No	11.1 Manually engaged differential lock for the tractor.
Yes	No	11.2 Automatic differential lock for the scraper.
Yes	No	11.3 Guarding to prevent damage to differentials from operation in landfill environment.
		<b>12. FINAL DRIVES.</b>
Yes	No	12.1 Planetary.
Yes	No	12.2 Full-floating axles removable independently of wheel ends.
Yes	No	12.3 Guarding to prevent damage to final drives from operation in a landfill environment.
		<b>13. BRAKES.</b>
Yes	No	13.1 Brakes on all four wheels.
Yes	No	13.2 Air applied, spring released service brakes.
Yes	No	13.3 Cam operated, expanding shoe type service brakes.
Yes	No	13.4 Spring applied, air released parking brake manually applied by operator.
Yes	No	13.5 Secondary braking system providing automatic brake application if service air pressure drops to 55 PSI.
Yes	No	13.6 Audible and visual indicators to alert operator when service air pressure drops to 75 PSI.
		<b>14. STEERING.</b>
Yes	No	14.1 Full hydraulic power steering.
Yes	No	14.2 Hydraulic follow-up system.
Yes	No	14.3 Two double-acting hydraulic cylinders.
Yes	No	14.4 85 - 90 degree steering angle each direction.

Meets Specifications or provide requested information		Company Name _____ Specification Requirement (circle yes/no or provide information as requested)	
Yes	No	14.5	Independent steering pump providing controlled fluid flow for constant steering response.
		<b>15. SUSPENSION SYSTEM.</b>	
Yes	No	15.1	Designed to absorb and dampen road shocks.
Yes	No	15.2	Controlled oil flow to limit rebound and prevent machine "loping" or bouncing at haul road speeds.
Yes	No	15.3	Leveling valve to center all scraper loads.
Yes	No	15.4	Manually activated lockout control for overriding the gooseneck shock absorbing system to provide positive control of the cutting edge during loading and dumping.
		<b>16. SCRAPER BOWL, APRON and EJECTOR.</b>	
Yes	No	16.1	Rated load of at least 48,000 lbs.
Yes	No	16.2	Capacity heaped (SAE rating) must be at least 20 cubic yards but not greater than 24 cubic yards.
Yes	No	16.3	Capacity struck (SAE rating) must be at least 14 cubic yards but not greater than 18 cubic yards.
Yes	No	16.4	Normal application center and end section cutting edges.
Yes	No	16.5	Operator controlled positive hydraulic down pressure on cutting edges.
Yes	No	16.6	One (1) double acting hydraulic cylinder for regulating the force, speed and the length of travel of the apron.
Yes	No	16.7	One (1) double acting hydraulic cylinder for positive forward and backward movement of the ejector.
Yes	No	16.8	Two (2) double acting hydraulic bowl lift cylinders.
Yes	No	16.9	Ability to raise bowl while apron is in closed position.
Yes	No	16.10	Reinforced, high strength structural steel construction.
Yes	No	16.11	Overflow guarding.
		<b>17. SCRAPER HYDRAULIC CONTROLS.</b>	
Yes	No	17.1	Bowl, apron and ejector operations controlled by single joystick levers.
Yes	No	17.2	Bowl control includes raise, hold, power down, and quick drop positions.
Yes	No	17.3	Apron control includes open (raise), hold, positive close (lower) and float positions.
Yes	No	17.4	Ejector control includes forward, hold and detent return positions with automatic kick-out on return.

Meets Specifications or provide requested information		Company Name _____ Specification Requirement (circle yes/no or provide information as requested)	
		<b>18. CAB AND RELATED EQUIPMENT.</b>	
Yes	No	18.1	Meets OSHA and MSHA requirements for operator sound exposure limits in accordance with ANSI/SAE J1166 (May90).
Yes	No	18.2	Rollover Protection Structure (ROPS) to be integral with cab and meet or exceed SAE 320a, SAEJ1040APR88, and ISO 3471-1986 requirements.
Yes	No	18.3	Fully enclosed, pressurized and shock mounted cab design.
Yes	No	18.4	Tinted safety glass in all windows.
Yes	No	18.5	Swing-out front window and sliding side windows designed to provide maximum front, rear and side view.
Yes	No	18.6	Rear window must provide view of entire cutting edge length from the seated position.
Yes	No	18.7	Windshield wiper and washer for both front and rear windows.
Yes	No	18.8	Adjustable tilt and telescoping steering column.
Yes	No	18.9	Adjustable, forward/rear and up/down, suspension seat with seat belt.
Yes	No	18.10	Inside mounted rearview mirror.
Yes	No	18.11	Independent foot control throttles for the tractor and scraper engines with the ability to operate both with one foot.
Yes	No	18.12	Foot rests.
Yes	No	18.13	Hand grab rails and access steps.
Yes	No	18.14	Throttle lock.
Yes	No	18.15	Cab heater and defroster with blower fans.
Yes	No	18.16	Manufacturer's recommended air conditioner.
Yes	No	18.17	Manufacturer's recommended 24 volt to 12 volt converter with a minimum 15 amp continuous rating for mobile radio power supply.
Yes	No	18.18	Manufacturer's recommended AM/FM radio
		<b>19. INSTRUMENTS, GAUGES, METERS and ALARMS.</b>	
Yes	No	19.1	Engine hour meter for both the tractor and scraper engine.
Yes	No	19.2	Air pressure indicator gauge with audible and visual alarms to alert operator when air supply falls to 75 PSI.
Yes	No	19.3	Torque converter oil temperature gauges (for both tractor and scraper) with visual warning systems to alert operator to high temperature.



Meets Specifications or provide requested information		Company Name _____ Specification Requirement (circle yes/no or provide information as requested)	
Yes	No	19.4	Engine coolant temperature gauges with visual warning systems for both engines.
Yes	No	19.5	Fuel level indicator with low fuel level visual indicator.
Yes	No	19.6	Engine tachometer for both tractor and scraper engines.
Yes	No	19.7	Alternator indicators with visual warning systems.
Yes	No	19.8	Engine oil pressure audible and visual warning system for both the tractor and scraper engines.
Yes	No	19.9	Hydraulic oil temperature warning system.
Yes	No	19.10	Transmission oil temperature audible and visual warning systems.
Yes	No	19.11	Power train oil bypass filter warning system.
Yes	No	19.12	Start and stop switch for both the tractor and scraper engines.
		<b>20. LIGHTING.</b>	
Yes	No	20.1	Two (2) front sealed hi/low beam work lights.
Yes	No	20.2	Two (2) front, wide mounted lights, directed to provide lighting to sides of tractor.
Yes	No	20.3	Two (2) rear mounted stop and tail lights.
Yes	No	20.4	Full instrument lighting.
Yes	No	20.5	Interior cab lighting.
Yes	No	20.6	Rear mounted flood lights directed at cutting edge and bowl.
		<b>21. MISCELLANEOUS.</b>	
Yes	No	21.1	Four (4) 33.25 X 29 (E-3), radial steel cord tires.
Yes	No	21.2	Extended push block on rear to allow the necessary clearance for push loading the scraper with a U-blade.
Yes	No	21.3	Fenders, tractor and scraper.
Yes	No	21.4	10lb, ABC dry chemical type fire extinguisher mounted per owners instructions.
Yes	No	21.5	Wide angle side mirrors mounted on each side of the cab.
Yes	No	21.6	Front bumper with tow hooks.
Yes	No	21.7	Tow hooks/pins mounted on rear of scraper.
Yes	No	21.8	Centralized lubrication blocks.
Yes	No	21.9	Ground level engine emergency shut-offs.

Meets Specifications or provide requested information		Company Name _____
		Specification Requirement (circle yes/no or provide information as requested)
Yes	No	21.10 Power train guarding.
Yes	No	21.11 Handholds, access steps and platforms to ensure safety.
Yes	No	21.12 Air line dryer.
		<b>22. PAINT.</b>
Yes	No	22.1 Two (2) primer coats.
Yes	No	22.2 One (1) coat manufacturers standard color, rust-inhibitor type paint.
		<b>21. MANUALS.</b>
Yes	No	23.1 Two (2) complete service manuals.
Yes	No	23.2 Two (2) complete parts manuals.
Yes	No	23.3 Two (2) complete operators manuals.
		<b>24. DELIVERY SCHEDULE.</b>
Yes	No	24.1 Delivery of specified equipment, FOB to the City of Lincoln Bluff Road Sanitary Landfill, 6001 Bluff Road, Lincoln, NE, requested within ninety (90) days after receipt of order.
Yes	No	24.2 Firm delivery schedule to be noted on the Proposal form.

Company Name: \_\_\_\_\_

**PROPOSAL  
SPECIFICATION NO. 03-194**

**BID OPENING TIME: 12:00 NOON**

**DATE: July 23, 2003**

The undersigned bidder, having full knowledge of the requirements of the City of Lincoln for the below listed items and the contract documents (which include Notice to Bidders, Instructions to Bidders, this Proposal, Specifications, Bid Attachments, Contract, and any and all addenda) and all other conditions of the Proposal, agrees to sell to the City the below listed items for the performance of this Specification, complete in every respect, in strict accordance with the contract documents at and for unit prices listed below.

LEASE WITH OPTION TO PURCHASE AND FULL MAINTENANCE AGREEMENT  
FOR  
TWIN ENGINE WHEEL TRACTOR SCRAPER

**BIDDING SCHEDULE**

<b><u>ITEM</u></b>	<b><u>ITEM DESCRIPTION</u></b>	<b><u>QUANTITY</u></b>	<b><u>TOTAL BASE BID PRICE</u></b>
1.	Annual lease payment for three year lease of twin engine wheel tractor scraper complete with full maintenance agreement.	1	\$ _____
	Specify: Mfg. _____		
	Model _____		

**Additional Bid Information:**

2. Purchase Price for Equipment: \$ \_\_\_\_\_

3. Lease Purchase Schedule:

<u>Year</u>	<u>Annual Lease Payment</u>	<u>End-of-year Purchase Residual</u>
1	\$ _____	\$ _____
2	\$ _____	\$ _____
3	\$ _____	\$ _____

4. Bidder agrees to execute the Heavy Equipment Full Maintenance Agreement as shown in Bid Attachment A:  
( ) Yes ( ) No (If no, state exceptions on separate company letterhead)

BID SECURITY IN THE TOTAL SUM OF FIVE PERCENT (5%) OF BASE BID, OR OF THE HIGHEST BID ALTERNATE AMOUNT, MUST BE SUBMITTED WITH PROPOSAL FORM.

**AFFIRMATIVE ACTION PROGRAM:** Successful bidder will be required to comply with the provisions of the City's Affirmative Action Policy (Contract Compliance, Sec. 1.16). The Equal Opportunity Officer will determine compliance or non-compliance with the City's policy upon a complete and substantial review of successful bidder's equal opportunity policies, procedures and practices.

The undersigned signatory for the bidder represents and warrant that he has full and complete authority to submit this proposal to the City, and to enter into a contract if this proposal is accepted.

NOTE:

RETURN 2 COMPLETE COPIES OF PROPOSAL AND SUPPORTING MATERIAL.

MARK OUTSIDE OF BID ENVELOPE AS FOLLOWS:

SEALED BID FOR SPEC.03-194

\_\_\_\_\_  
COMPANY NAME

\_\_\_\_\_  
BY (Signature)

\_\_\_\_\_  
STREET ADDRESS or P.O. BOX

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
CITY, STATE      ZIP CODE

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
TELEPHONE

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
EMPLOYER'S FEDERAL I.D. NO.  
OR SOCIAL SECURITY NUMBER

\_\_\_\_\_  
ESTIMATED DELIVERY DAYS

\_\_\_\_\_  
TERMS OF PAYMENT

BIDS MAY BE INSPECTED IN THE PURCHASING DIVISION OFFICES DURING NORMAL BUSINESS HOURS, AFTER TABULATION BY THE PURCHASING AGENT. IF YOU DESIRE A COPY OF THE BID TABULATION TO BE MAILED TO YOU, YOU MUST ENCLOSE A SELF-ADDRESSED STAMPED ENVELOPE WITH YOUR BIDDING DOCUMENTS.

## **Bid Attachment A**

### **HEAVY EQUIPMENT MAINTENANCE AGREEMENT TWIN ENGINE WHEEL TRACTOR SCRAPER (SAMPLE)**

THIS AGREEMENT is made and entered into by and between (Company), hereinafter referred to as "Lessor/Seller", and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as the "City" this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

WHEREAS, the City solicited bids for the lease and option to purchase a Twin Engine Wheel Tractor Scraper (Scraper) under City Specification No. 03-194; and

WHEREAS, (Company) submitted a bid pursuant to the City's specifications and was the low and best bid and, therefore, awarded the contract for the lease with option to purchase of a (Model) Twin Engine Wheel Tractor Scraper according to the City of Lincoln's specifications; and

WHEREAS, the City's request for bids and specifications required that the successful bidder provide as a part of its bid a three (3) year full machine maintenance agreement relating to the repair and maintenance of the Scraper; and

WHEREAS, the specifications further required that the successful bidder and Lessor/Seller herein enter into a full service maintenance contract to fully comply with the City of Lincoln specifications.

NOW, THEREFORE, in consideration of these premises, the Lessor/Seller and the City do hereby agree as follows:

1. This Agreement applies to the Scraper lease with option to purchase by the City pursuant to Specification No. 03-194.
2. This Agreement shall be in effect from the date of machine acceptance throughout the lease period not to exceed a period of three years, or in the event the City elects to purchase the equipment the Agreement shall be in effect from the date of machine acceptance for a period of three years or 6,000 hours of operation, whichever occurs first.

3. **General Terms and Conditions.**

- a. The City Reserves the right at any time during the term of this Agreement to sell, lease, loan, or trade or otherwise dispose of the Scraper at its discretion. Such action by the City shall make this Agreement immediately null and void.
- b. To every extent possible service and/or repairs will be performed at the machine's location at a City owned facility. In the event that Lessor/Seller determines that the machine must be taken to an authorized repair facility to accomplish the service and/or repairs all transportation costs shall be the responsibility of the Lessor/Seller.
- c. The City will maintain current and accurate fuel, add oil, and operating hour records not to exceed a five-day lag. The City shall notify the Lessor/Seller of operating hours on a weekly basis or other agreed upon frequency. The Lessor/Seller reserves the right to examine the City's records at any time upon reasonable notice. Failure by the City to comply with this provision will render the Agreement null and void.
- d. The Lessor/Seller shall provide maintenance services during non-use hours generally defined as after 4:30 p.m. and before 6:30 a.m., Monday - Friday. This schedule may be changed by mutual agreement of both parties.
- e. The Lessor/Seller may inspect the Scraper any time upon reasonable notice to the City. The Lessor/Seller may make recommendations for operating and maintenance procedures at any time during the term of this Agreement. The City, to the best of its ability, will comply with such recommendations within a reasonable time, not to exceed 30 days.
- f. Should the Scraper be out of service for three (3) normal working days due to the failure of the Lessor/Seller to complete service and/or repairs, the Lessor/Seller shall provide to the City of Lincoln at the Lessor/Seller's expense, a loaner Scraper of similar size and design, until such time as the Scraper is placed back in service. Failure of the Lessor/Seller to provide such a loaner Scraper after the three-day period will subject the Lessor/Seller to liquidated damages in the amount of \$500.00 per day.
- g. The service and/or repairs due to acts of nature, fire, theft, vandalism, accident, or neglect or abuse directly caused by the City will not be considered the responsibility of the Lessor/Seller.
- h. At any time during the term of this Agreement, the City reserves the right to return the performance bond rendering this Agreement null and void.

4. **Detailed service and repair requirements.** The following service and/or repair related expenses will be the responsibility of the Lessor/Seller through this Agreement:

- a. All preventive maintenance, service, repairs, and adjustments required to keep the Scraper in satisfactory operating condition, based on manufacturer's recommended maintenance procedures and intervals for the application described in the City's specifications, through the term of this Agreement, except that engine oil changes, oil filter

replacements and sampling shall be performed every 250 hours. This shall include all parts, labor, fluids, filters, lubricants, mileage, sub-contractor costs, environmental fees and expendables unless otherwise excluded by the terms of this Agreement.

- b. All labor shall be performed by service technicians factory certified to perform service and/or repairs on the equipment covered under this Agreement and shall be full-time employees of the Lessor/Seller.
- c. All parts utilized in the service and/or repairs on the equipment covered under this Agreement shall be OEM new or rebuilt to meet OEM specifications and carry the manufacturer's name.
- d. All fluids and lubricants utilized in the service and/or repairs on the equipment covered by this Agreement shall meet or exceed the manufacturer's recommendations.
- e. During the term of this Agreement the Lessor/Seller shall perform manufacturer's recommended oil sampling and analysis on all major components and provide the City a copy of each completed analysis. The City reserves the right to make repair recommendations based on the results of the oil analysis program.
- f. Lessor/Seller shall provide full emergency after-hours service on a 24-hour, seven (7) day a week, basis.
  - (1) The Lessor/Seller shall begin the repair services within two (2) hours of the request.
  - (2) Failure of the Lessor/Seller to provide an accessible contact or failure to meet the maximum two (2) hour response time will subject the Lessor/Seller to liquidated damages in the amount of \$500.00 per incident.
  - (3) The City shall agree to pay only the difference between the Lessor/Seller's normal daily shop labor rate and the after-hours shop labor rate when emergency repairs are performed.
  - (4) The City shall not be responsible for mobilization, mileage, or any equipment transportation costs incurred by the Lessor/Seller.
- g. The following will be excluded from the Lessor/Seller's responsibility unless normally covered under the manufacturer's standard or extended warranty:
  - (1) All City labor associated with manufacturer's recommended operator's service and inspection;
  - (2) All fuel, lubricants, and top-off fluids associated with operator's service and inspection;

- (3) Air and fuel filters requiring more frequent replacement than specified by the manufacturer.
- (4) All parts and labor associated with ground engaging equipment to include cutting edges, bits, shanks, teeth, and blades;
- (5) All parts and labor associated with working, driving, turn, and exterior warning lights, less wiring and switches;
- (6) All parts and labor associated with tire repair and replacement;
- (7) All parts and labor associated with cab glass; and
- (8) All parts and labor associated with cleaning and re-painting.

5. Lessor/Seller shall provide to the City a performance bond in the sum of \$10,000.00 executed by the Lessor/Seller and by a corporate surety company authorized to transact business in the state of Nebraska which bond shall be conditioned upon the faithful performance of all terms and conditions of this full machine maintenance agreement including the holding harmless of the City from failure to do so, and including the making good of any and all guarantees which the contract documents may require for the duration of the contract period.

EXECUTED by the Lessor/Seller the day and year last above written.

**Company**

By: \_\_\_\_\_  
Authorized Representative

EXECUTED by the Lessor/Seller the day and year last above written.

**City of Lincoln, Nebraska**, a municipal corporation

By: \_\_\_\_\_  
Mayor



# INSTRUCTIONS TO BIDDERS

## CITY OF LINCOLN, NEBRASKA PURCHASING DIVISION

### **1. BIDDING PROCEDURE**

- 1.1 Bidder shall submit two (2) complete sets of the bid documents and all supporting material. All appropriate blanks shall be completed. Any interlineation, alteration or erasure on the specification document shall be initialed by the signer of the bid. Bidder shall not change the proposal form nor make additional stipulations on the specification document. Any amplified or qualifying information shall be on the bidder's letterhead and firmly attached to the specification document.
- 1.2 Bid prices shall be submitted on the Proposal Form included in the bid document.
- 1.3 Bidders may submit a bid on an "all or none" or "lump sum" basis, but should also submit a quotation on an item-by-item basis. Bidding documents shall be clearly marked indicating the kind of proposal being submitted.
- 1.4 Each bid must be legibly printed in ink or by typewriter, include the full name, business address, and telephone number of the bidder; and be signed in ink by the bidder.
- 1.5 A bid by a firm or organization other than a corporation must include the name and address of each member.
- 1.6 A bid by a corporation must be signed in the name of such corporation by a duly authorized official thereof.
- 1.7 Any person signing a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.8 Bids received after the time and date established for receiving bids will be rejected.

### **2. BIDDER'S SECURITY**

- 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bidder's bond, may be required to be submitted with this bid document, as indicated of the Proposal Form.
- 2.2 If alternate bids are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 2.3 Such bid security will be returned to the unsuccessful bidders when the award of bid is made.
- 2.4 Bid security will be returned to the successful bidder(s) as follows:
  - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the City.
  - 2.4.2 For all other contracts: upon approval by the City of the executed contract and bonds.
- 2.5 City shall have the right to retain the bid security of bidders to whom an award is being considered until either:
  - 2.5.1 A contract has been executed and bonds have been furnished.
  - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
  - 2.5.3 All bids have been rejected.

- 2.6 Bid security will be forfeited to the City as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this specification document:

- 2.6.1 If the bidder fails to deliver the equipment or merchandise in full compliance with the accepted proposal and specifications.
- 2.6.2 If the bidder fails or refuses to enter into a contract on forms provided by the City, and/or if the bidder fails to provide sufficient bonds or insurance within the time period as established in this specification document.

### **3. EQUAL OPPORTUNITY**

- 3.1 Each bidder agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age, or marital status. Bidder shall fully comply with the provisions of Chapter 11.08 of the Lincoln Municipal Code.
- 3.2 Successful bidder will be required to comply with the provisions of the City's Affirmative Action Policy (Contract Compliance, Sec. 1.16).
- 3.3 The Equal Opportunity Officer will determine compliance or non-compliance with the City's Affirmative Action Policy upon a complete and substantial review of successful bidder's equal opportunity policies, procedures and practices.

### **4. DATA PRIVACY**

- 4.1 Bidder agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.
- 4.2 The bidder agrees to hold the City harmless from any claims resulting from the bidder's unlawful disclosure or use of private or confidential information.

### **5. BIDDER'S REPRESENTATION**

- 5.1 Each bidder by signing and submitting a bid, represents that the bidder has read and understands the specification documents, and the bid has been made in accordance therewith.
- 5.2 Each bidder for services further represents that the bidder is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bid documents.

### **6. INDEPENDENT PRICE DETERMINATION**

- 6.1 By signing and submitting this bid, the bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder prior to bid opening directly or indirectly to any other bidder or to any competitor; no attempt has been made, or will be made, by the bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

## **7. CLARIFICATION OF SPECIFICATION DOCUMENTS**

- 7.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the specification documents.
- 7.2 Bidders desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing Agent at least seven (7) calendar days prior to the date and time for receipt of bids.
- 7.3 Interpretations, corrections and changes made to the specification documents will be made by written addenda.
- 7.4 Oral interpretations or changes to the Specification Documents made in any other manner, will not be binding on the City; and bidders shall not rely upon such interpretations or changes.

## **8. ADDENDA**

- 8.1 Addenda are written instruments issued by the City prior to the date for receipt of bids which modify or interpret the specification document by addition, deletion, clarification or correction.
- 8.2 Addenda will be mailed or delivered to all who are known by the City to have received a complete set of specification documents.
- 8.3 Copies of addenda will be made available for inspection at the office of the Purchasing Agent.
- 8.4 No addendum will be issued later than forty-eight (48) hours prior to the date and time for receipt of bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.
- 8.5 Bidders shall ascertain prior to submitting their bid that they have received all addenda issued, and they shall acknowledge receipt of addenda on the proposal form.

## **9. ANTI-LOBBYING PROVISION**

- 9.1 During the period between the bid close date and the contract award, bidders, including their agents and representatives, shall not directly discuss or promote their bid with any member of the City Council or City Staff except in the course of City-sponsored inquiries, briefings, interviews, or presentations, unless requested by the City.

## **10. BRAND NAMES**

- 10.1 Wherever in the specifications or proposal form brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.
- 10.2 It is the bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the City that said item is equal to, or better than, the product specified.
- 10.3 Bids for alternate items shall be stated in the appropriate brand on the proposal form, or if the proposal form does not contain blanks for alternates, bidder MUST attach to the specification documents on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation. The bidder must indicate any variances by item number from the specification document no matter how slight. Bidder must fully explain the variances from the specification document, since brochure information may not be sufficient.

- 10.4 If variations are not stated in the proposal, it will be assumed that the item being bid fully complies with the City's specifications.

## **11. DEMONSTRATIONS/SAMPLES**

- 11.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the City.
- 11.2 Such demonstration can be at the City delivery location or a surrounding community.
- 11.3 If bidder does not have an item in the area, it will be at the bidder's expense to send appropriate City personnel to the nearest location to view and inspect proposed item(s).
- 11.4 If items are small and malleable, and the bidder is proposing an alternate product, the bidder MUST supply a sample of the exact item. Samples will be returned at bidder's expense after receipt by the City of acceptable goods. Bidders must indicate how samples are to be returned.

## **12. DELIVERY**

- 12.1 Each bidder shall state on his proposal form the date upon which he can make delivery of all equipment or merchandise. Time required for delivery is hereby made an essential element of the bid.
- 12.2 The City reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the proposal form.
- 12.3 All bids shall be based upon **inside** delivery of the equipment or merchandise F.O.B. the City at the location specified by the City, with all transportation charges paid.

## **13. WARRANTIES, GUARANTEES AND MAINTENANCE**

- 13.1 Copies of the following documents must accompany the bid proposal for all items being bid:
  - 13.1.1 Manufacturer's warranties and/or guarantees.
  - 13.1.2 Bidder's maintenance policies and associated costs.
- 13.2 As a minimum requirement of the City, the bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the City. Replacement parts of defective components shall be shipped at no cost to the City. Shipping costs for defective parts required to be returned to the bidder shall be paid by the bidder.
- 13.3 Bidder Warrants and represents to the City that all software/firmware/ hardware/equipment /systems developed, distributed, installed or programmed by Bidder pursuant to this Specification and Agreement.
  - 13.3.1 That all date recognition and processing by the software/firmware/hardware/equipment/system will include the four-digit-year format and will correctly recognize and process the date of February 29, and any related data, during Leap years; and
  - 13.3.2 That all date sorting by the software /firmware/hardware/ equipment/system that includes a "year category" shall be done based on the four-digit-year format. Upon being notified in writing by the City of the failure of any software/ firmware/ hardware /equipment /systems to comply with this Specification and Agreement, Contractor will, within 60 days and at no cost to the City, replace or correct the non-

complying software/ firmware/ hardware/ equipment/ systems with software/firmware/ hardware/equipment/ systems that does comply with this Specification and Agreement.

- 13.3.3 No Disclaimers: The warranties and representations set forth in this section 13.3 shall not be subject to any disclaimer or exclusion of warranties or to any limitations of Licensor's liability under this Specification and Agreement.

#### **14. ACCEPTANCE OF MATERIAL**

- 14.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.
- 14.2 Material delivered under this proposal shall remain the property of the bidder until:
- 14.2.1 A physical inspection and actual usage of this material is made and found to be acceptable to the City; and
- 14.2.2 Material is determined to be in full compliance with the specifications and accepted proposal.
- 14.3 In the event the delivered material is found to be defective or does not conform to the specification documents and accepted proposal, then the City reserves the right to cancel the order upon written notice to the bidder and return materials to the bidder at bidder's expense.
- 14.4 Successful bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the City of Lincoln, Nebraska, as required by the specification documents or purchase orders.
- 14.5 Selling dealer's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

#### **15. BID EVALUATION AND AWARD**

- 15.1 The signed bid proposal shall be considered an offer on the part of the bidder. Such offer shall be deemed accepted upon issuance by the City of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 15.2 No bid shall be modified or withdrawn for a period of sixty (60) calendar days after the time and date established for receiving bids, and each bidder so agrees in submitting the bid.
- 15.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 15.4 The bid will be awarded to the lowest responsive, responsible bidder whose proposal will be most advantageous to the City, and as the City deems will best serve their requirements.
- 15.5 The City reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, by groups, or "lump sum"; to waive irregularities and technicalities in bids; such as shall best serve the requirements and interests of the City.

#### **16. INDEMNIFICATION**

- 16.1 The bidder shall indemnify and hold harmless the City, its members, its officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees arising out of or resulting from the performance of the contract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than goods, materials and equipment furnished under this contract) including the loss or use resulting therefrom; is caused in whole or part by any negligent act or omission of the bidder, any subcontractor, or anyone directly or indirectly employed by any one of them or anyone for whose acts made by any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.
- 16.2 In any and all claims against the City or any of its members, officers or employees by an employee of the bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 16.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the bidder or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

#### **17. TERMS OF PAYMENT**

- 17.1 Unless other specification provisions state otherwise, payment in full will be made by the City within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

#### **18. LAWS**

- 18.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

# SAMPLE LEASE AGREEMENT

## Twin Engine Tractor/Scraper

This Agreement is entered into by and between the City of Lincoln, Nebraska, hereinafter referred to as "City" and \_\_\_\_\_, hereinafter referred to as "Lessor".

1. PROVISION OF EQUIPMENT. Lessor shall provide to the City Public Works Division one (1) each Twin-engine Tractor Scraper in accordance with Specification No. 03-194 and Lessor's proposal which are attached hereto and made a part hereof. In the event of conflict between the provisions of this agreement, the specifications, and the Lessor's proposal, the order of precedence shall be as follows: this agreement (including attachments and exhibits), the specifications, the Lessor's proposal.
2. DELIVERY. Lessor shall deliver the equipment at City of Lincoln, Nebraska's designated locations upon request and mutual agreement, throughout the five (5) year term of the lease. All delivery shall be at no cost to the City. The Superintendent of Solid Waste of Lincoln Public Works Department shall be responsible for authorizing in writing all requested deliveries.
3. TERM. The term of this agreement shall commence on the date of ratification by the City (on or about September 1, 2003, and continue for a period of 36 months; provided, however, the City may terminate this agreement upon providing to the Lessor written notification of termination specifying that funds will not be appropriated for continued lease of the equipment.
  - 3.1 Such notification must be sent to Lessor at least 30 days prior to the proposed date of termination.
  - 3.2 Upon expiration of the term of this agreement Lessor shall remove the equipment from City property, along with any of Lessor's supplies, at no cost to the City.
4. COMPENSATION. The City shall make semi-annual payments to the Lessor in the amount of \$\_\_\_\_\_ per vehicle according to the schedule set forth in Lessor's proposal, attached.
  - 4.1 This charge includes and covers all required service, maintenance and supplies excluding fuel, oil and minor preventative maintenance as may be agreed upon by the parties.
5. TAXES. All taxes, including sales, use and property taxes associated with this Agreement, shall be paid by the Lessor and shall not be the responsibility of the City.
6. TITLE TO EQUIPMENT. Title to the equipment shall remain with the Lessors at all times and the City shall have no right, title, or interest therein except as expressly set forth in this Agreement.
  - 6.1 Risk of loss, except loss resulting from negligent operation by the City, its employees, or golf patrons shall be assumed by the Lessor.
7. CITY'S RESPONSIBILITIES. The City agrees to:
  - 7.1 Provide a delivery site at the Bluff Road Landfill location;
  - 7.2 With City's approval, permit Lessor's field maintenance staff to enter its premises at all reasonable times to service the equipment;
  - 7.3 Provide suitable space for Lessor's field maintenance staff to service the equipment;

- 7.4 Provide suitable space for storage of a minimum stock of preventative maintenance supplies at the site;
- 7.5 Provide a designated key operator at the site for training in the use of the equipment and, in the event of personnel turnover, notify Lessor immediately for training of a new key operator;
- 7.6 Provide minor preventative maintenance for the equipment as may be agreed upon by the parties.
- 7.7 Upon expiration or termination of this agreement, permit Lessor to remove the equipment.
- 8. ADD, DELETE AND RELOCATION OF EQUIPMENT. The Superintendent of Solid Waste shall coordinate with the Lessor to determine the placement and movement, relocation, addition and deletion of equipment and supplies.
- 9. SERVICING OF EQUIPMENT. Lessor warrants the equipment provided under this agreement will be maintained in proper functioning order during the term of this agreement. Lessor makes no other warranties, express or implied, or of merchantability for this equipment.
  - 9.1 If this equipment does not function properly during the contract term, it shall be repaired or replaced without charge to the City within 24 hours of notification.
  - 9.2 Equipment which requires excessive service calls shall be replaced by the Lessor instead of being repaired, excessive being measured by the industry standard.
  - 9.3 Contractor is responsible for all maintenance and repair/replacement services of the equipment, without charge to the City, except those services City may specifically agree to assume.
    - 9.3.1 At its own cost and expense, Lessor will provide all necessary maintenance parts and supplies unless otherwise specifically agreed by the parties.
  - 9.4 During normal working hours, a customer equipment service representative of the Lessor will, at the City's request, provide equipment repair service on the City's premises.
    - 9.4.1 The request for repairs shall be acknowledged by the Lessor within eight (8) hours after request is made by the City.
    - 9.4.2 For purposes of this agreement, normal working hours shall mean 7:00 a.m. to 3:00 p.m., seven days per week.
    - 9.4.3 The City agrees to make the equipment immediately available for scheduled maintenance and repair.
  - 9.5 In the event that any repair or servicing requires removal of the equipment from the City's premises for a period of more than 24 hours, Lessor agrees to provide, at no cost to the City, replacement equipment equal to the equipment being provided under this agreement, to deliver the same, and to maintain the same, until such time as the equipment provided under this agreement is repaired or serviced and returned.
- 10. DEFAULT.
  - 10.1 If the City fails to pay any invoice within 60 days after receipt thereof or if the City fails to perform any of its other obligations under this agreement, or if the City attempts to sell, transfer or encumber the equipment provided hereunder, the Lessor, in addition to any other remedies that may be legally available to it, at its option, may terminate this agreement and immediately repossess all items of equipment.

- 10.1.1 On termination for City's default, the City shall permit the Lessor's representative to enter its premises to remove the equipment and shall pay all outstanding invoices and the full amount owed at the time of termination for actual services rendered.
- 10.2 If the Lessor fails to perform its obligations under this agreement, the City may, in addition to any other remedies legally available to it, do any one or more of the following:
- 10.2.1 In the event that Lessor fails to properly service or maintain or repair the equipment, the City may obtain maintenance servicing or repairs from another factory trained source and deduct the cost thereof from future invoices; or
- 10.2.2 In the event that Lessor fails to provide additions, deletions or replacement equipment when required within the terms of this agreement and specification, the City may obtain substantially equal equipment from another source and charge the Lessor the cost of obtaining such replacement equipment over and above the amount such services and equipment would have cost the City under this agreement if the Lessor had not defaulted;
- 10.3 Repeated failure on the part of the Lessor to provide repairs in a timely fashion or to provide supplies shall entitle the City to immediately terminate this agreement upon five days written notice to the Lessor advising it of such termination.
11. INDEMNIFICATION. The Lessor shall indemnify and hold harmless the City, its officers, agents, and employees from and against all claims, damages, losses, and expenses, including but not limited to, attorney fees arising out of or resulting from performance of this agreement, the results and any claims for damages whatsoever, including, without limitation, bodily injury, death, or any injury or destruction of tangible or intangible property including any loss of use resulting therefrom that is caused in whole or in part by Lessor or anyone directly or indirectly employed by Lessor.
- 11.1 This section shall not require Lessor to indemnify or hold harmless the City for any losses, claims, damages, or expenses arising out of or resulting from the sole negligence of the City, its employees, or golf patrons.
12. FAIR EMPLOYMENT PRACTICES. In the performance of this agreement, the Lessor shall not discriminate against any employee (or applicant for employment) with respect to compensation, terms, advancement potential, conditions, or privileges or employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status, pursuant to the requirements of Chapter 11.08 of the Lincoln Municipal Code and Neb. Rev. Stat. § 48-1122 (reissue 1998).
13. INTEGRATION. This agreement represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this agreement.
14. AMENDMENT. This agreement may be amended or modified only in writing signed by both the City and the Lessor.
15. GOVERNING LAW. This agreement will be interpreted and governed in accordance with the Laws of the State of Nebraska.
16. NON-ASSIGNABILITY. Lessor may not assign this lease or service agreement or subcontract any portion thereof without the prior written consent of the City. Notwithstanding any assignment or subcontracting, Lessor shall continue to be obligated for the performance of the terms of this

17. NO REMEDY EXCLUSIVE. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.
18. NOTICES. Any notice required or permitted to be sent by this agreement shall be sent to the following individuals at the following addresses unless the party to whom notice is to be sent advises the other party of a change:

to the City of Lincoln

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to the Lessor

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